



NEWSLETTER CRIMINOLOGY AND INTERNATIONAL CRIMES

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Editorial

This year may well turn out to be a stormy year for international criminology. The first trial at the ICC has started, a sitting head of state has been indicted and a rebel commander Bahar Idriss Abu Garda appeared voluntarily before the ICC judges. Studying the (legal) reaction to international crimes is an integral part of the criminology of international crimes. Now that the ICC is starting to show its teeth, this supranational reaction can become an integral part of our academic studies. The impact of the particularly the ICC's indictments of President al Bashir of Sudan has already been hotly discussed. Will it worsen the plight of the refugees and affected civilians in Darfur? Will it further isolate the Sudanese regime? Or will it aid to resolve the conflict and bring peace? How do victims perceive the ICC?

Here in Amsterdam, the first batch of students in the Master International Crimes and Criminology are working away at their Master's theses. These first 30+ students were a mixed and inspiring bunch for the teaching staff: they came from law, history, statistics, political science, criminology; some were already working in international criminal law, or

involved in aid to victims of international crimes; while most were from the Netherlands, we also had students born in Iran, Sudan, Italy, Ethiopia, Australia and Germany as well. These students forced us to not only understand our field but to get it across in teaching as well – a good drill for some of us!!

We hope that this 'class of 2008' will remain linked to us through the network, and that they will all continue feeding us with their work experiences in (new) positions after graduation. We hope to collaborate with some of them, and we hope that we can add a few to our staff as junior researchers and teaching assistants.

Agenda

For a more extensive agenda we refer to our website: www.supranationalcriminology.org

- 7-10 June 2009 **Conference:** 8th Biennial Conference 'The new face of genocide in the 21st century'. Institute for Conflict Analysis and Resolution. George Mason University, Arlington, Virginia, USA. www.genocidescholars.org
- 16-18 June 2009 **Colloquium:** Sexual Violence as an International Crime. Center for Law & Globalization. The Hague, the Netherlands. <http://www.lexglobal.org/events/conferences/sexual-violence-as-international-crime->
- 17-19 June 2009 **Conference:** 'The 1965-1966 Indonesian Killings Revisited'. National University of Singapore, Kent Ridge. <http://www.ari.nus.edu.sg/conf2009/Indonesian-Killings.htm>
- 18-19 June 2009 **Conference:** 'Criminology and the Media.' Dutch Society of Criminology. Leiden, The Netherlands. http://www.criminologie.nl/nvk/NVK_Congres.htm

- 22-24 June 2009 **Symposium:** “Recognizing Knowledge to Reduce Crime and Injustice”. Stockholm, Sweden.
www.criminologysymposium.com
- 24-25 June 2009 **Conference:** ‘Strategic Communications in Countries Emerging from Violent Conflict.’ Albany Associates and Post Conflict People. London, United Kingdom
<http://www.albanyassociates.com>
- 26 June 2009 **Conference:** International Human Rights Network. ‘Measuring Justice: Justice Sector Evaluation & Human rights.’ National University of Ireland, Maynooth, Ireland.
www.ihrnetwork.org/international-conference-2009_231.htm
- 29 June – 1 July 2009 **Conference:** British Society of Criminology Annual Conference 2009. The University of Glamorgan and Cardiff University. City Hall, Cardiff, Wales, United Kingdom.
<http://bsconference2009.glam.ac.uk/>
- 1-2 July 2009 **Conference:** York St John University Centre for Peace Studies. “Repertoires of Violence: Multidisciplinary Analyses of the Representation of Peace and Conflict”. York St John University, York, United Kingdom.
<http://www.yorks.ac.uk/peaceconference>
- 4-11 July 2009 **Seminar:** International Peace Seminar 2009. International Academy for Human Sciences and Culture in association with the Center for Heritage Resource Studies at the University of Maryland, USA Walenstadt, Switzerland.
http://www.peace-academy-society.org/international_seminar.htm
- 7-10 July 2009 **Conference:** International Conference on Peace and Reconciliation. York St John University. Los Angeles, California, USA.
http://www2.yorks.ac.uk/default.asp?Page_ID=5548&Parent_ID=1852
- 8-9 July 2009 **Conference:** The Australian and New Zealand Critical Criminology Conference Monash University, Melbourne, Australia
<http://www.arts.monash.edu.au/criminology/c3>
- 10-12 July 2009 **Conference:** Dispute resolution and restorative justice. American Caribbean Law Initiative (ACLI). Port of Spain, Trinidad and Tobago
<http://www.fcsl.edu/acli/>
- 17 July 2009 **Conference:** The Changing Human Rights Landscape. Castan Centre for Human Rights Law. Melbourne, Victoria, Australia.
<http://www.law.monash.edu.au/castancentre>
- 23-28 August 2009 **Symposium:** World Society of Victimology: 13th International Symposium on Victimology. Mito, Japan
<http://www.worldsocietyofvictimology.org/>
- 31 August-2 September 2009 **Conference:** ‘Seventy Years On: New Perspectives on the Second World War.’ University of Calgary. Calgary, Alberta, Canada
<http://www.ucalgary.ca/newperspectives>
- 2-5 September 2009 **Conference:** European Association of Psychology and Law Conference. ‘Crime victims and the violation of rights.’ Sorrento, Italy
www.sara-cesvis.org
- 9-12 September 2009 **Conference:** The 9th Annual Conference of the European Society of Criminology Ljubljana, Slovenia.
<http://www.esc-eurocrim.org/conferences.shtml>
- 22-23 October 2009 **Conference:** Maastricht Centre for Human Rights. ‘Corruption and Human Rights’. Maastricht University, the Netherlands.
<http://www.unimaas.nl/default.asp?template=werkveld.htm&id=TE12QN4K7A0F30K64511&taal=en>
- 22-23 October 2009 **Conference:** International interdisciplinary conference on rehabilitation and reintegration of war-affected children (RRWAC). Royal Flemish Academy for Science and the Arts. Brussels, Belgium
www.rrwac.be
- 4-7 November 2009 **Conference:** American Society of Criminology. Criminology and Criminal Justice Policy. Philadelphia, Pennsylvania, USA
<http://www.asc41.com/annualmeeting.htm>

If you organize a conference, workshop or symposium related to international crimes, please inform us
info@supranationalcriminology.org
and we will make a reference on our website and in the newsletter.

THE HAGUE NEWS

By: Barbora Holà

What is new in “the legal capital of the world” in the field of international criminal justice? The current developments taking place in the practice of the Hague international criminal courts and tribunals during the first half of 2009 are highlighted in the following text.

1. ICTY

The Third Amended Indictment against *Radovan Karadzic*, former President of Republika Srpska, was filed in February 2009. In this amended indictment, the scope of criminal conduct underlying the charges against Karadzic was substantially reduced and the remaining counts were further restructured. Two counts have been dropped from the initial indictment - charge of complicity in genocide and grave breaches of Geneva Conventions. Karadzic now stands charged with two counts of genocide instead of the initial one. The territorial reach of the initial indictment has also been circumscribed, Karadzic is now accused of criminal conduct in relation to 27 municipalities instead of the initial 41. In March Karadzic failed to enter a plea in relation to this indictment and a plea of not guilty to all counts was entered on his behalf.

In January the trial of *Vlastimir Dordevic*, former Assistant Minister in the Serbian Ministry of Internal Affairs and Chief of its Public Security Department, started. Dordevic is charged with crimes against humanity and war crimes committed against ethnic Albanians in Kosovo in 1999. The trial of Dordevic is the fifth and last case before the ICTY concerning crimes allegedly committed in Kosovo.

The trial phase of another Kosovo related case was concluded by the ICTY. In February the judgement in *Milutinovic et al.* was handed down. Five high ranking political, military and police officials in the Milosevic regime were convicted for crimes committed during the campaign of ethnic cleansing in Kosovo in 1999. Milutinovic, the former president of Serbia, was acquitted of all charges. Former Yugoslav Deputy Prime Minister Sainovic, Yugoslav Army General Pavkovic and Serbian police General Lukic were each sentenced to 22 years for crimes against humanity and violation of the laws or customs of war. Lazarevic, Yugoslav Army General, and Ojdanic, Chief of the General Staff, were found guilty of aiding and abetting deportation and forcible transfer of the ethnic Albanian population of Kosovo and each sentenced to 15 years' imprisonment. This judgement is the first judgement handed down by the ICTY concerning crimes committed by Federal Republic

of Yugoslavia and Serbian forces in Kosovo during the 1999 conflict.

In March the ICTY Appeals Chamber rendered the final judgement in the *Krajisnik* case. The former President of the Bosnian Serb Assembly was sentenced to 20 years' imprisonment instead of the original 27 years handed down at trial. The Appeals Chamber quashed Krajisnik's convictions of murder, extermination and persecution (with exception of deportation and forcible transfer). The judgement deals extensively with the doctrine of joint criminal enterprise. On 5 May the case against *Veselin Sljivancanin* and *Mile Mrksic* (“Vukovar Hospital”) concerning torture and murders of over 200 non-Serbs in a farm building in Ovcara was also finalized by the Appeals Chamber. Mrksic's sentence of 20 years was confirmed by the Appeals Chamber while Sljivancanin's 5-year sentence was increased to 17 year imprisonment. In addition to aiding and abetting torture, the Appeals Chamber also found him guilty of aiding and abetting the murder of prisoners of war after the fall of the Croatian town of Vukovar.

2. ICTR

In March the trial of *Idelphonse Hategekimana* began before the Trial Chamber III. During the 1994 genocide Hategekimana was a Commander of the Ngoma Camp in Butare prefecture. He is accused of collaborating with others in planning, preparing and executing a plan to eliminate the Tutsi population and of personally overseeing the massacre of civilians in Butare by the Interahamwe militia and military personnel. The request from the Prosecutor to transfer the case to Rwanda was turned down by the Tribunal due to insufficient criminalization of command responsibility in Rwandese law and possible violations of his rights to a fair trial. In April another trial with *Yussuf Munyakazi*, the former businessman in Bugarama commune, started. Initially, the Prosecutor was also trying to refer the case to Rwanda, however the application was denied by the Appeals Chamber based on the concerns relating to the independence of Rwandese judiciary and his fair trial rights in Rwanda. The third new trial in 2009 against former sub-prefet of Gisagara, *Dominique Ntawukurirayo*, started on 6 May 2009. He is accused, among others, of bearing responsibility for the “Kabuye Hill Massacre” where approximately 25,000 civilians are thought to have been killed between 21 and 25 April 1994.

The judgment in the ‘*Military I*’ case concerning four senior officers in Rwandan army in 1994 was rendered late December 2008. Bagosora, the former Director of Cabinet in Ministry of Defence, Ntabakuze, commander of the Para Commando Battalion and Nsengiyumva, commander of the Gisenyi Operational sector, were each sentenced to life imprisonment for genocide, crimes against

humanity and war crimes committed by Hutu soldiers and militiamen during the 1994 genocide. Their co-accused, Kabiligy, the former head of military operations bureau of the Army General Staff, was acquitted of all charges. In the judgement the judges dealt extensively with defence arguments that RPF bears responsibility for much of the killing in 1994. In another case decided right at the end of the last year, *Protais Zigiranyirazo*, also known as “Mr. Z”, a Rwandan businessman and politician whose sister was married to President Habyarimana, was convicted of participation in genocide and extermination as a crime against humanity and sentenced to 20 years imprisonment. In both these cases, the parties have appealed the judgements and the appeals are now pending.

In February 2009 *Emmanuel Rukundo*, the former military chaplain in the Rwandan Armed Forces, was sentenced to 20 years of imprisonment for genocide and murder and extermination as crimes against humanity based on his participation in the killings of Tutsi civilians in the Gitarama prefecture in 1994. His status as respected, well known and educated priest in the community was considered to be an aggravating factor in sentencing by the Trial Chamber.

In February, the ICTR Appeals Chamber confirmed the sentence of life imprisonment pronounced by Trial Chamber I to *Francois Karera*, the former prefect of Kigali. Despite reversing many of the convictions entered on trial, the Appeals Chamber concluded that “the crimes for which the Appellant remained convicted are extremely grave and the reversals do not warrant a reduction of the sentence imposed by the Trial Chamber”.

3. CCSL

The judgement in “*the RUF*” case against Former RUF Interim Leader Sesay, RUF commander Kallon and Former RUF Chief of Security Gbao was handed down in February. Sesay and Kallon were each found guilty on 16 of the 18 counts in the indictment, Gbao was convicted of 14 counts of war crimes and crimes against humanity committed during the civil war in Sierra Leone. For the first time in the history of international criminal justice, the convicts were also found guilty of the specific war crime of ‘attack on peacekeepers’. The sentencing judgement was issued in April. All convicts received long prison sentences – Sesay-52 years, Kallon-40 years and Gbao-25 years imprisonment.

4. ICC

Democratic Republic of Congo

In January the first trial in the history of the ICC was opened in the case of *Thomas Lubanga Dyilo*. This trial is the first trial in the history of the international criminal law where also victims are

allowed to participate in the proceedings. In total, 93 persons have been recognised as victims in this case.

The date of the beginning of the trial in another case related to the situation of DRC has been set by the ICC. The trial of *Germain Katanga and Mathieu Ngudjolo Chui* is to start on the 24th of September 2009. By this date, the Trial Chamber must also rule on a challenge of admissibility raising issues concerning complementarity filed by the defence of Katanga and deal with applications of almost 150 victims for participation in the trial.

Central African Republic

In March the Pre-Trial Chamber adjourned the confirmation of charges hearing in the case of *Jean Pierre Bemba Gombo* which started in January 2009. The Chamber asked the Prosecution to consider amending charges against Bemba. The judges indicated that the evidence supports charges based on a different type of responsibility, i.e. superior responsibility, than presented by the Prosecution. The Prosecution was invited to consider submitting amended charges reflecting this finding.

Darfur, Sudan

At the beginning of March the long awaited decision concerning the arrest warrant against the Sudanese President Omar Al-Bashir was issued. The Pre-Trial Chamber I issued a warrant for his arrest based on his alleged involvement as an indirect (co-) perpetrator in war crimes and crimes against humanity committed in Sudan. This decision is the first in the history of the ICC to call for the arrest a sitting Head of State. The majority of the Chamber also concluded that the Prosecution’s evidence failed “to provide reasonable grounds to believe” that genocide was committed by the Government of Sudan and consequently the crime of genocide is not included in the arrest warrant. The Prosecution has applied for leave to appeal this ruling dismissing the charges of genocide.

5. Miscellaneous

There are two other issues which deserve to be at least cursorily mentioned.

First, Belgium instituted proceedings before the International Court of Justice against Senegal concerning its failure to prosecute or extradite the former President of Chad, Hissein Habre for his alleged involvement in crimes of torture and crimes against humanity. The oral hearings were held at the beginning of April 2009. By involving the ICJ in such a dispute, the Belgian authorities have taken an unprecedented step in the history of international human rights protection.

Secondly, the Special Tribunal for Lebanon, the fourth UN ad-hoc international criminal tribunal,

was opened in The Hague in February 2009. Its jurisdiction is limited to crimes related to the assassination of Rafiq Hariri, the former Lebanese Prime Minister, in 2005 and it will be applying Lebanese law. Antonio Cassese has been appointed the Tribunal's first President.

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Crimes against humanity initiative

By: Leila Nadya Sadat

Overview of the Initiative

In Spring, 2008, the Whitney R. Harris World Law Institute of Washington University School of Law embarked upon a project to study the need for a comprehensive convention on crimes against humanity, analyze the necessary elements of such a convention, and draft a proposed treaty. The project, the "Crimes Against Humanity Initiative," will take place in four discrete phases, over a period of two years, as follows:

- **Phase I.** Preparation of the project and methodological development, including the formation of a project Steering Committee;
- **Phase II.** Private study of the project through the commission of working papers by leading experts, the convening of expert meetings, and collaborative discussion of draft treaty language;
- **Phase III.** Public discussion of the project and adoption of the draft convention; and
- **Phase IV.** Publication and promotion of the draft treaty within the appropriate academic and diplomatic communities.

In addition to other public outreach efforts, the expert papers, the draft treaty, and a comprehensive commentary to the draft treaty will be published by Cambridge University Press. Given the tremendous interest in the Initiative and its goals, it is expected that the Initiative's publications will be widely disseminated and discussed.

Why a specialized convention on crimes against humanity?

Since the indictment and judgment of the International Military Tribunal at Nuremberg, there has been no specialized convention on "Crimes Against Humanity." The Crimes Against Humanity Initiative is intended to fill this gap.

Although the adoption of the Convention for the Prevention and Punishment of the Crime of Genocide was an important step forward in 1948, it has provided little solace to the victims of modern-day atrocities. Limited by its drafters to the

intentional destruction of only four groups -- racial, ethnic, national and religious -- the Genocide Convention does not apply to atrocity crimes committed against social and political groups. Indeed, of the estimated 100 million civilians killed in the past seventy years, only six to eight million have been within the reach of the Genocide Convention, as applied by international courts and tribunals. Although other treaties, such as the Apartheid Convention and the new treaty on Enforced Disappearances, condemn particular crimes against humanity, most crimes against humanity remain outside the ambit of a universal treaty, unless they involve a situation within the jurisdiction of the International Criminal Court. Even in that case, no proviso for State Responsibility exists, and no mechanisms for interstate enforcement are provided for.

Like the Geneva Conventions of 1949 and the Genocide Convention, a crimes against humanity treaty will complement and reinforce the mission of the ICC by building upon the negotiations that led to the inclusion of crimes against humanity in the Rome Statute in 1998. At the same time, the Rome Statute provides a starting place, not an end point, when it comes to the problem of mass atrocities. While the Rome Statute provides for the investigation and prosecution of individual offenders, not all States are parties, and the Court can only prosecute a very limited number of offenders, given its size and statutory mandate. A comprehensive crimes against humanity convention could provide much-needed provisions on interstate cooperation in the investigation and punishment of perpetrators of crimes against humanity, filling both a normative gap, and providing critically important enforcement mechanisms.

This Initiative's goal of ending impunity for those who commit crimes against humanity is also linked to the further development of the "Responsibility to Protect" doctrine. Under international law, States must not commit certain of the most serious international crimes, and may have a duty to prosecute those responsible for their commission. The emerging Responsibility to Protect principle may also require States to affirmatively intervene to protect vulnerable populations from nascent or continuing international crimes under certain circumstances. A necessary condition precedent to the invocation of the Responsibility to Protect is a clear definition of the event which triggers that responsibility. A comprehensive crimes against humanity convention could reinforce the normative obligation not to commit crimes against humanity, as well as emphasize the duty of States to prevent the commission of atrocity crimes.

Current status of the initiative

In 2008, the Initiative's Steering Committee was formed and Phase I was completed. The Steering

Committee members are Leila Nadya Sadat (Chair), M. Cherif Bassiouni, Hans Corell, Richard Goldstone, Juan Méndez, William Schabas, and Christine van den Wyngaert. The first experts' meeting of the Initiative was held in St. Louis, Missouri, on April 12-15, 2009, and was attended by nearly fifty international experts. The Initiative is holding its second experts' meeting in The Hague from June 11-12, 2009.

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Conference papers

50th Annual Convention of the International Studies Association

By: Marjolein Cupido

From 15 to 18 February 2009 the International Studies Association organized their 50th Annual Convention entitled 'Exploring the past, anticipating the future.' During this three day conference in the heart of the 'Big Apple' (the New York Marriott Marquis at Broadway) around 4000 researchers from various disciplines presented their papers on new innovative ways in which international studies can contribute to the solution of pressing world problems. The common ground on which the presentations were based is the conviction that we need to know and reflect on the past before we can anticipate to the future soundly.

Although the main focus of the conference was on international relations and politics, several sessions and papers were specifically related to international crimes. In one of the first sessions, Elies van Sliedregt presented her paper on the problematic relationship between the collective nature of international crimes and the principle of individual criminal responsibility. Van Sliedregt argued that the way in which the ICTY has dealt with system criminality is unsatisfactory from a conceptual and legality point of view. By means of judicial interpretation the ICTY has developed and 'reconceptualized' the concepts of JCE and superior responsibility. Although Van Sliedregt acknowledges that such casuistic development of the law is inevitable in the light of its open texture, she finds that it raises problems with a view to the principle of legality when casuistry is used in a 'bad' manner as in the ICTY's case law on JCE.

In the same session Alette Smeulers presented a paper co-written by Barbora Hola which demonstrates that criminology can make a valuable contribution to the development of international

criminal law by focusing on the question how state-violence could have become the norm within a state. As an illustration, Smeulers presented her research on the difference between international crimes and ordinary crimes and the perpetrators thereof. In that light Smeulers has designed a typology of perpetrators which can be used to analyze internal relationships and groups dynamics in order to better understand perpetrators in international crimes. The different roles played by the various types of perpetrators should also be taken into account when attributing criminal blame to the individual perpetrator and during the sentencing procedure.

In a session on Monday Mark Drumbl presented his research on 'the agency and innocence of child soldiers'. By excluding the criminal responsibility of persons under the age of 18, the Rome Statute of the ICC represents the firmest instantiation of the basic principle of absolute childhood innocence within international criminal law. According to Drumbl this meshes poorly with the mixed motivations among child soldiers to participate in international crimes. Drumbl acknowledges that children are not like ordinary criminals, but argued that children who commit widespread atrocities over many years are not completely hapless either. In further research Drumbl will show that the answer to the problem of child soldiers is not to have more trials for children, but to relinquish a system that dissuades all forms of accountability for children.

In a later session Richard Wilson presented his research on the role of historians and social scientists as expert witnesses at the ICTY. Wilson focused on the question why prosecutors and defense counsel introduce evidence from social science and history and whether this evidence is accepted or rejected in court. He argued that in the light of the international crimes, expert witness testimonies have had significant bearing upon central legal issues in a trial. According to Wilson, the influence of experts depend on the consensus of opinion among experts and the fixity and determinacy of the expert testimony.

Other papers worth reading were presented by William Schabas on prosecutorial discretion, Sarah Nouwen on the principle of complementarity and Sir Geoffrey Nice on the Milosevic Trial. The interested reader can find them at www.isanet.org/paperarchive.

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International Conflict Conference

By: Lotte Hoex

It has been 15 years since the Rwandan genocide, 30 years since the end of the mass killing in Cambodia and 10 years since the ethnic cleansing in Kosovo. To commemorate these mass atrocities, three distinguished guest speakers came together during the International Conflict Conference in Amsterdam, on the 18th of May 2009. The conference was organised by the students' organisations *Dutch United Nations Student Association Amsterdam* and the *Third Chamber*. The theme of the International Conflict Conference was the 'prevention of and response to mass atrocity crimes, what did we learn?'. The speakers discussed the lessons the international community has learned on ways to prevent human disasters from taking place in, amongst other places, the African Great Lakes region, as well as how to respond to mass atrocities in that region and elsewhere.

After an introduction from the chair of the day, Mr. Jan Pronk, the first speaker, Mr. Gareth Evans, President of the NGO International Crisis Group, gave a presentation about the responsibility to protect (R2P). He started off by making a clear point: *"Whatever else we screw up, not let us ever screw up as international community with mass atrocities occurring around the world ever again. Not let us ever look back with shame."* He emphasised that the occurrence of mass atrocities are everyone's responsibility. The primary responsibility is for the sovereign state, when the state fails its responsibility, there is a responsibility for the wider international community.

Although the concept of the R2P has been successfully received by the international community during the World Summit in 2005 there are still some challenges. Evans discussed three of these challenges. First of all there is a conceptual problem; some people view the R2P too narrow, while others view it too broad. Evans explained that the R2P is quite a small concept; it will apply only to 12-15 countries at any given time. Secondly, there is an institutional challenge to put into place the measures of R2P. Lastly, there is a political challenge to mobilize politicians to respond. Evans concluded his presentation by underlining that the international community should start with recognizing that international crimes are a responsibility for all of us. We have the mechanisms available, now we just need the will. *"To say never again 'never again'"*.

The second speaker of the day was doctor James Orbinski, who was Médecins Sans Frontières' (MSF) Head of Mission in Rwanda during the genocide and has been the International President of MSF from 1998 to 2001. He argued for a separation between humanitarian aid and politics, because a

humanitarian crisis cannot be solved by humanitarian aid if the root causes of the crisis are political. In that case, the response should be political, of which the first step is to speak up. Everyone who is capable of speaking should speak up.

The third speaker of the day was the Indian Lieutenant General Jasbir Lidder, who was the military head of the UN peacekeeping mission in Sudan from 2006 till 2008. The main theme of his presentation was the protection of civilians from the perspective of the military. He advocated for an integrated approach: military, political and humanitarian protection for civilians. This triggered a discussion between him and doctor James Orbinski. According to Orbinski, it is necessary to strictly separate humanitarian from military, since humanitarian aid comes from a humanitarian impulse, while military aid comes from nation states, and the latter always have their political interests and intentions in peacekeeping missions. The counterargument by Lidder was that when people are dying, they do not care about who is helping them, as long as somebody provides help. The discussion whether to separate or integrate military with humanitarian aid continued during the panel discussion with doctor James Orbinski, General Jasbir Lidder, Mr. van de Geer, and the audience, led by Mr. Pronk.

The conference was closed by Mr. Pronk, who concluded that the current world situation has not improved a lot since the 1990s. He argued that we need strong and political response. Pronk repeated the words of Orbinski to the questions of what we have learned from the past and how we should respond to mass atrocities in the future: by speaking up.

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A LETTER FROM SUDAN

By: Anne Schuit

Studying international crimes and criminology is important in understanding today's inter- and intrastate conflicts, and atrocities committed. However, I've always been missing a more practical knowledge and insight in the very theoretical approach that is often inherent to university education. In order to understand the issues being studied more thoroughly and in depth, grasps what conflict means and does, I believe one should actually go to areas where conflict has been or is ravaging. For me, this opportunity came in April this year when, being an exchange student in South Africa, I got the chance to join a research

group of the University of Pretoria. Under supervision of a very knowledgeable coordinator, who is also a professional war-photographer and 4 other students from different countries (Zimbabwe, Malawi, Nigeria and Finland) I went to Juba, the capital of Southern Sudan, for 10 days. All students conducted their own research about their specific topic. My research focused on the perception of people from Southern Sudan concerning the indictment of the International Criminal Court of Sudanese president al-Bashir, and if the indictment affects their security situation. It's incredible how much you learn during such a research trip. Not only regarding substance and content, but also about issues as methodology, dealing with corruption and approaching specific social situations. Never did I realize the significance of the course 'research methodology of international crimes' more, and at the same time I was never more aware of how little a course can prepare you for issues you are going to face 'in the field'.

In Sudan there has been a war between the north and the south for over 50 years. The second civil war started when the Muslim north imposed Sharia law on the non-Muslim south, but apart from religion it is also about oil resources and marginalization. When in 2005 the Comprehensive Peace Agreement (CPA) was signed between the northern National Congress Party and the southern Sudan People Liberation Movement/Army (SPLM/A), a government was established in South Sudan. Also, a timeline was set out for a referendum in 2011 to vote about secession from the north. In the 4 years of peace, little progress and development has come to Juba. The city looks like a poor village, with huts and gravel roads. Many parts are still ruined, and when landing with a plane in Juba you see parts of other planes lying around the huts that surround the airstrip. The safety situation at first appears to be quite okay. I could move around on *bota bota*'s (motorbikes) if I was with one of the African students, and people were friendly and curious. After a couple of days however I realized the threat in Juba does not come from the population, but from the government and specifically the army. The SPLM does not exercise effective or centralized control over its army, partially because they have no budget to pay salaries. The SPLA consists of predominantly illiterate former rebels who seek individual power. When walking around in Juba, every 100 meters a SPLA soldier asks you what you are doing and why, especially if he just saw another soldier doing it. My supervisor, the Finish student and me were arrested for taking pictures, which we knew was a sensitive topic, by the next soldier while having had permission from the first one. After hours of negotiation and eventually erasing pictures and paying 200 Sudanese pounds we were released.

To answer my research question, I interviewed many local and international NGO's, UN organizations and Southern Sudanese people. A

general finding was that the ICC indictment, that charges al-Bashir for crimes committed in Darfur, does not mean much to people. There is a strong perception that what happened in Darfur is completely different from the war between the north and the south. The indictment therefore doesn't represent any form of justice for them. Their justice still has yet to come, and this can only be achieved by secession from the north. The indictment actually raises questions as to why al-Bashir hasn't been prosecuted for the atrocities committed in South Sudan, which took many more lives than in Darfur. As for the security situation, it is feared that the indictment will undermine the CPA and will consequently cause a revival of the conflict. At the same time, many people see the conflict reviving anyway. To them, the current situation is seen as just a phase in the overall conflict, with 2011 being the next phase. The south will then either vote for secession, which the north will not allow since the oil deposits are in the south, or the referendum will be postponed, because the crucial steps before the referendum have not been fulfilled yet (elections and border demarcation), which the south will not accept. In both scenarios, conflict will return in 2011. Added to this pessimistic view is the increasing tribal fighting, currently especially between the Dinka and Murle tribes in Jonglei State, inside Southern Sudan. These conflicts traditionally evolve around cattle raiding, but their nature seems to change towards ethnic cleansing. Whether an independent South Sudan is going to be a 'new Somalia' as some people claim is yet to be seen, but the fact that it will be confronted with a challenging future is already an eminent reality.

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Selected New Publications

Compiled by: Lotte Hoex and Alette Smeulers

In this section we list a number of books and articles of interest which were published recently. We do not pretend to present a complete list but rather rely on books which we think are worthwhile or which have been recommended to us.

BOOKS

Ambos, K. et al. (eds.) (2009). *Building a Future on Peace and Justice: Studies on Transitional Justice, Conflict Resolution and Development. The Nuremberg Declaration on Peace and Justice*. Berlin, Heidelberg: Springer.

Results of the 2007 Nuremberg Conference on Peace and Justice: Tensions between peace and justice have long been debated by scholars, practitioners and agencies including the United Nations, and both theory and policy must be refined for practical application in situations emerging from violent conflict or political repression. Specific contexts demand concrete decisions and approaches aimed at redress of grievance and creation of conditions of social justice for a non-violent future. There has been definitive progress in a world in which blanket amnesties were granted at times with little hesitation. There is a growing understanding that accountability has pragmatic as well as principled arguments in its favour. Practical arguments as much as shifts in the norms have created a situation in which the choice is increasingly seen as 'which forms of accountability' rather than a stark choice between peace and justice. It is socio-political transformation, not just an end to violence, that is needed to build sustainable peace. This book addresses these dilemmas through a thorough overview of the current state of legal obligations; discussion of the need for a holistic approach including development; analysis of the implications of the coming into force of the ICC; and a series of 'hard' case studies on internationalized and local approaches devised to navigate the tensions between peace and justice.

Brouwer, de, A.M. (ed.), S. Ka Hon Chu & S. Muscati (2009). *The Men Who Killed Me: Rwandan Survivors of Sexual Violence.* Vancouver: Douglas & McIntyre.

Fifteen years after the Rwandan genocide, the book "The Men Who Killed Me: Rwandan Survivors of Sexual Violence" features testimonials from seventeen survivors. Through their narratives and portraits, sixteen women and one man bear witness to the crimes committed against hundreds of thousands of others. For more information visit www.menwhokilledme.com

Fujii, L.A. (2009). *Killing Neighbors: Webs of Violence in Rwanda.* Ithaca: Cornell University Press.

In the horrific events of the mid-1990s in Rwanda, tens of thousands of Hutu killed their Tutsi friends, neighbors, even family members. That ghastly violence has overshadowed a fact almost as noteworthy: that hundreds of thousands of Hutu killed no one. In a transformative revisiting of the motives behind and specific contexts surrounding the Rwandan genocide, Lee Ann Fujii focuses on individual actions rather than sweeping categories. Fujii argues that ethnic hatred and fear do not satisfactorily explain the mobilization of Rwandans one against another. Fujii's extensive interviews in Rwandan prisons and two rural communities form

the basis for her claim that mass participation in the genocide was not the result of ethnic antagonisms. Rather, the social context of action was critical. Strong group dynamics and established local ties shaped patterns of recruitment for and participation in the genocide. This web of social interactions bound people to power holders and killing groups. People joined and continued to participate in the genocide over time, Fujii shows, because killing in large groups conferred identity on those who acted destructively. The perpetrators of the genocide produced new groups centered on destroying prior bonds by killing kith and kin.

Hagan, J. & W. Raymond-Richmond (2009). *Darfur and the Crime of Genocide.* Cambridge Studies in Law and Society Cambridge: Cambridge University Press.

In 2004, the State Department gathered more than a thousand interviews from refugees in Chad that verified Colin Powell's U.N. and congressional testimonies about the Darfur genocide. The survey cost nearly a million dollars to conduct and yet it languished in the archives as the killing continued, claiming hundreds of thousands of murder and rape victims and restricting several million survivors to camps. This book for the first time fully examines that survey and its heartbreaking accounts. It documents the Sudanese government's enlistment of Arab Janjaweed militias in destroying black African communities. The central questions are: Why is the United States so ambivalent to genocide? Why do so many scholars deemphasize racial aspects of genocide? How can the science of criminology advance understanding and protection against genocide? This book gives a vivid firsthand account and voice to the survivors of genocide in Darfur.

Vilmer, J-B., J. (2009). *Repairing the Irreparable: Reparations to Victims before the International Criminal Court.* Paris: Presses Universitaires de France.

For the first time in the history of international criminal justice, a jurisdiction has a real regime of reparations to victims of the worst international crimes: genocide, crimes against humanity and war crimes. But how can we repair massive human rights violations? How can we retribute, compensate and rehabilitate the survivors? Is it even possible? Repairing the irreparable is one of the most ambitious challenges of the International Criminal Court. In the wake of the ten-year anniversary of the Rome Statute and on the eve of its revision, the time has come to evaluate the justice and efficacy of such a regime. This book has two aims. First, as an overview, it aims to introduce and explain the ICC's reparation regime in a manner that is both exhaustive and panoramic. Second, it aims to judge

and analyze in a normative perspective the efficiency and justice of a system that, like any risky bet, naturally presents some difficulties. Satisfying at the same time the technical requirements of law as well as conceptual, political and philosophical requirements, this book, written in a clear and pedagogical style, intends to be read not only by students, scholars in law, international relations, criminology and in philosophy, but also professionals and the general public.

Osiel, M. (2009). *The End of Reciprocity. Terror, Torture, and the Law of War*. Cambridge: Cambridge University Press.

Why should America restrain itself in detaining, interrogating, and targeting terrorists when they show it no similar forbearance? Is it fair to expect one side to fight by more stringent rules than the other, placing itself at disadvantage? Is the disadvantaged side then permitted to use the tactics and strategies of its opponent? If so, then America's most controversial counterterrorism practices are justified as commensurate responses to indiscriminate terror. Yet different ethical standards prove entirely fitting, the author finds, in a conflict between a network of suicidal terrorists seeking mass atrocity at any cost and a constitutional democracy committed to respecting human dignity and the rule of law. The most important reciprocity involves neither uniform application of fair rules nor their enforcement by a simple-minded tit-for-tat. Real reciprocity instead entails contributing to an emergent global contract that encompasses the law of war and from which all peoples may mutually benefit.

Schaller, D.J. & J. Zimmerer (ed) (2009). *The Origins of Genocide. Raphael Lemkin as a historian of mass violence*. Routledge Military, Strategic & Security Studies. New York: Routledge.

In 2008 the United Nations celebrated the 'Convention on the Prevention and Punishment of the Crime of Genocide', adopted in December 1948. It is time to recognize the man behind this landmark in international law. At the beginning were a few words: "New conceptions require new terms. By 'genocide' we mean the destruction of a nation or of an ethnic group". Rarely in history have paradigmatic changes in scholarship been brought about with such few words. Putting the quintessential crime of modernity in only one sentence, Raphael Lemkin (1900-1959), the Polish Jewish specialist in international law, not only summarized the horrors of the National Socialist Crimes, which were still underway, when he coined the term "genocide" in 1944, but also influenced international law. As the founding figure of the UN Genocide Convention Lemkin is finally getting the

respect he deserves. Less known is his contribution to historical scholarship on genocide. Until his death, Lemkin was working on a broad study on genocides in the history of humankind. Unfortunately, he did not manage to publish it. The contributions in this book offer for the first time a critical assessment not only of his influence on international law but also on historical analysis of mass murders, showing the close connection between both.

Smith, A.M. (2009). *After Genocide: Bringing the Devil to Justice*. New York: Prometheus Books.

How did one of the bravest and most optimistic expressions of post Cold War global power - the provision of justice for those victimised by atrocious crimes - degenerate into a system in which so few are convinced that justice is being dispensed? This book comprehensively examines the complex world of international criminal justice in several hot spots including the former Yugoslavia, Sierra Leone, Rwanda, Sudan and Uganda. The author suggests ways to provide an effective justice system that entrusts the potentially destabilising work of war crimes justice to the very states affected by the crimes.

Stahn, C. & G. Sluiter (2009). *The Emerging Practice of the International Criminal Court*. Leiden: Martinus Nijhoff Publishers/Brill.

The International Criminal Court is at a crossroads. In 1998, the Court was still a fiction. A decade later, it has become operational and faces its first challenges as a judicial institution. This volume examines this transition. It analyses the first jurisprudence and policies of the Court. It provides a systematic survey of the emerging law and practice in four main areas: the relationship of the Court to domestic jurisdictions, prosecutorial policy and practice, the treatment of the Court's applicable law and the shaping of its procedure. It revisits major themes, such as jurisdiction, complementarity, cooperation, prosecutorial discretion, modes of liability, pre-trial, trial and appeals procedure and the treatment of victims and witnesses, as well as their criticisms. It also explores some challenges and potential avenues for future reform.

Totten, S. (ed.) & P.R. Bartrop (ed.) (2009). *The Genocide Studies Reader*. New York: Routledge.

This thorough overview of all aspects of the field of genocide studies brings together for the first time classic and contemporary writings from some of the most noted scholars writing on genocide in the fields of genocide studies, political science, history, and sociology. The Reader covers key aspects of a host of complex and thorny issues, such as the

definition of genocide, theories of genocide, prevention and intervention, and its denial. This collection of writings is essential reading for anyone who wants to understand this most atrocious form of political violence that has plagued human history.

Tyner, J. (2009). *War, Violence, and Population*. New York: Guilford Press.

Grounded in theory and research, this book offers a spatial perspective on how and why populations are regulated and disciplined by mass violence—and why these questions matter for scholars concerned about social justice. James Tyner focuses on how states and other actors use acts of brutality to manage, administer, and control space for political and economic purposes. He shows how demographic analyses of fertility, mortality, and migration cannot be complete without taking war and genocide into account. Stark, in-depth case studies provide a powerful and provocative basis for retheorizing population geography.

JOURNALS

Genocide Studies and Prevention

By: Maartje Weerdesteijn

The **third issue of 2008** is a general issue and contains articles on a wide variety of topics. The first article deals with the role and effects of rape during genocidal violence. Reid-Cunningham analyses how rape can represent a symbolic conquest of women that can spread through entire communities. The stigmatized women are a reminder for the entire community of their collective defeat, and may be shunned or abused further, leading to the disintegration of communities. Robert Melson in the second article looks into what he calls “the paradox of genocide prevention”. He theorises that preventing genocide will rarely be rewarded. A prevented genocide is a “non-event” and leaders can only risk being criticised for the costs that prevention may impose on their countries. The third article is a review of the literature on comparative genocide studies. Hiebert concludes that although comparative genocide studies have been able to identify many causal factors that contribute to the occurrence of genocide, more “rigorous comparative methodological practices” are necessary. In the fourth article Maitles investigates whether learning about the Holocaust encourages positive citizenship values. Although results were not clear-cut, there was some evidence that studying the Holocaust promoted tolerance. In the fifth article Timmermann deals with hate speech and the importance that this is criminalized within national law. She bases her argumentation on the notion that

“hate speech regularly, if not inevitably, precedes and accompanies ethnic conflicts, and particularly genocidal violence”. In the research note that concludes the issue, Hlamides investigates the relatively unknown relief actions of a New York based organization in response to the genocide of the Greeks in the Ottoman Empire.

The **first issue of 2009** is concerned with indigenous people and whether to call their ill-treatment in many countries “genocide”, “cultural genocide” or perhaps “ethnocide”. In the first article Brenden Rensink uses the 1864 Sand Creek Massacre of Cheyennes and Araphahos in southeastern Colorado by the Colorado Militia as an example to point out the challenges and value of incorporating this aspect of North America’s history into the field of genocide studies. The second article examines the forgotten Bushman genocides of Namibia. Here Gordon distinguishes between necessary and sufficient conditions for the genocide to occur and places the genocide into a wider context. The two articles that follow argue that a strict separation of the definitions of genocide and ethnocide are not always useful. Katherine Ellinghous argues that biological absorption should be recognized as a pervasive construct of the US’ and Australia’s policy towards the native population. The fact that acknowledging its pervasiveness blurs the boundaries between genocide and ethnocide indicates that strict definitions are not always helpful in understanding the actions of settler societies. Andrew Woolford points the attention to the difficulties of labeling the genocide of the indigenous population in Canada as “cultural genocide”. He rightfully points out that the indigenous people were not only required to assimilate but many also died at the hands of the settlers or from starvation. Therefore Woolford argues the genocide convention should be reinterpreted and advocates a conception of genocide that has a less rigid division between cultural and physical destruction. The final article focuses on the problems that will be encountered when the Declaration on the Rights of Indigenous Peoples will be implemented.

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Journal of Genocide Research

By: Maartje Weerdesteijn

In **2008** two of the issues of the Journal of Genocide Research also deal with genocidal violence directed towards indigenous people. The second issue is devoted to research on genocide in relation to settlers, colonialism and imperialism and the fourth more specifically focuses on historic

reconstruction and analysis. The first article of **the second issue** is concerned with how the apology of Australia's Prime Minister Rudd for Australia's policy of removing children from aboriginal families, has buried the word genocide from public discourse. Barta finds this an unfortunate development and fears that the apology will bury the tainted history of Australia through a focus on reconciliation. In the second article Finzsch argues for a different definition of genocide by promoting genocide analysis on the basis of a sliding continuum that ranges from every day practices to mass murder. He places the biological warfare that accompanied the genocide on native inhabitants in a wider perspective which he terms settler imperialism and sees it as a form of low intensity warfare that preceded organized modern wars. The third article also places the violence against indigenous people in a wider perspective. Harper in his article looks at the value of the concept of extreme violence in genocide studies and links it to the role colonial states played in allowing the violence to escalate. The final article assesses the relationship between the words extermination and genocide to denote American practices against its native population and the explanatory value of both.

The **fourth issue** is also concerned with indigenous people but that issue comprises a number of more specific case studies. Included are articles on the role of massacres in the Black War in Tanzania, the forced removal of aboriginal children from their families in Australia between 1788 and 1901 and an analysis of the incongruous role that imperial Britain took regarding "Australia Felix". The fourth and fifth article, focus on more recent episodes in European history. The fourth article starts by identifying a British/Irish colonial nexus in Ireland's contested and constructed history and analyses how this is related to accusations that genocide has been committed in Ireland. The fifth article seeks to explain why violence escalated in the Majdanek concentration camp during WWII and looks at the role that the perception of the location in "far away Poland" played therein. The final article explains how genocide as a crime was neutralized by explanatory frameworks that normalized all but the most brutal violence.

The **first issue** of 2008 deals primarily with the genocidal history of the Ottoman Empire and Turkey. In the first two articles a closer look is taken at the violent social engineering and turkification policies of the young Turks. Georgelin looks at the relationship between two of those groups, the Greek Orthodox Christians and the Armenians. The subsequent article focuses on the prelude of the genocide by looking at the safety of Armenians in the rural areas in the years leading up to WWI. The final article assesses the manner in which the rule of law influenced perceptions about the subordinate status of non-Muslim groups and

human rights violations against them in the 20th century Ottoman Empire. The article analyses the manner in which these issues were discussed at the time using human rights discourse.

In the **third issue** of the *Journal of Genocide Research* the central focus of the first three articles is the role of the bystanders to genocide. The first two articles focus on the current conflict in Darfur. In the first article VanRooyen Leaning; Johnson; Hirschfeld; Tuller; Levine; and Hefferman study the destruction of the livelihoods of non-Arab Darfurians brought about by the Sudanese government and its militia. They argue the latter brought about "conditions of life calculated to bring about their physical destruction in whole or in part" and that consequently the actions of the government of Sudan and its militia constitute genocide, imposing an obligation on the international community to act. The second paper focuses on the role of the US and its policy towards the conflict in Darfur. It analyses the factors that have caused the US to opt for a policy of non-intervention and argues that although in its rhetoric and actions the US seemed more willing in 2004 to act to suppress the genocide in Darfur, it could and should have taken more decisive non-military actions. The third article seeks to explain how passive bystanders were turned into active rescuers through a focus on three WWII Whermacht officers who engaged in rescue actions to save Jews from a certain death. The fourth article takes on a different topic by focusing on the process of reconciliation in Cambodia and the manner in which the genocidal past now influences the younger generations. It establishes that without proper education in the schools the exposure to the past at home, in museums and at memorials instills fear, anger and disbelief in the Cambodian youth. The article makes several suggestions about how to improve the commemoration and reconciliation process.

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Critical criminology

By: Annika van Baar

The **first 2009 issue** of Critical Criminology is a special issue on state crime. It starts out with an article by Rothe, Ross, Mullins, Friedrichs, Michalowski, Barak, Kauzlarich and Kramer on the future directions in State Crime Studies. They address three central topics: the increase or decline of the power of states, the methods and research tools needed to advance the study of state crime and the direction for future pedagogy and/or political activism. The article evaluates the use of case

studies of state crime and advocates a more holistic approach through meta-analyses and comparative methodologies. The issue continues with three case studies. Mullins provides a multi-level analysis of rape as a tool of warfare and genocide in Rwanda. Lenning & Brightman also address rape, arguing that the decentralised nature of the Nigerian legal system allows rape by the security forces and facilitates the ongoing violence against women, which may constitute an international crime. Rothe uses an integrated theory of violations of international criminal laws to analyse President Ronald Reagan's war against Nicaragua. Furthermore, this issue contains book reviews by Hoofnagle and Lang on *Supranational criminology: towards a criminology of international crimes* by Smeulers and Haveman and the book by Mullins and Rothe, *Blood, Power & Bedlam: violations of international criminal law in Post-Colonial Africa*.

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Journal of International Criminal Justice

By: Barbora Holà

The **fourth issue** of 2008 starts off by two topical articles. First, Goran Sluiter discusses the trial of Radovan Karadzic and procedural problems in its initial phases. He states that in order to deliver fair and expeditious justice in this case the ICTY must above all tackle two procedural problems: first, self representation and second, presumption of innocence and impartiality of the Tribunal given that it has already dealt with many crimes Karadzic is charged for. Sluiter argues that "a solution is still far away for the first procedural problem and as regards the second, the ICTY has made an unfortunate start." In the second article, John Dehn discusses the prohibition of perfidy in international humanitarian law in relation to the Colombian hostage rescue case and the capture of rebel leaders by the disguised Colombian security forces. He concludes that "either perfidious capture is permissible in non-international armed conflict or it is a non-criminal and inconsequential violation of IHL." Two articles in the new "Workshops" section of the Journal deal with ad hoc international criminal tribunals' completion strategy. The ICTY is discussed by Fausto Pocar who argues that completion strategy serves as a tool to enhance the development of rule of law in the former Yugoslavia. Erik Mose focuses on challenges and solutions in the ICTR's completion strategy. The next Workshop is centred around the assessment of the first five years of functioning of the ICC. In a "View from Within" Blattmann and Bowman analyze achievements and problems of the ICC

highlighting especially the system for providing support for victims and growing outreach programme. Schabas discusses prosecutorial discretion in the selection of situations and cases to be heard by the Court and related concepts of self-referral' and 'gravity'. He concludes that "opportunistic constructions of the ICC Statute driven by the need to generate activity will linger in the future, distorting the proper role of the ICC in the campaign against impunity and the protection of human rights". The Notes and Comments section contains papers by Giustiniani on the *Seromba* Appeals Chamber judgment, and by Apuuli on the possibility that the ICC will defer jurisdiction in the LRA proceedings to Uganda.

The **fifth issue** in 2008 begins with set of articles commenting on the request for an arrest warrant of the Sudanese President Al-Bashir at the ICC. The Journal editors discuss among others the appropriateness of charges of genocide (Cayley) or the strategic implications of arrest warrant (Gosnell). Jessberger and Geneuss analyze the concept of indirect perpetration and conclude that "charging Al Bashir as an indirect perpetrator appears to be an appropriate description of his involvement in the alleged crimes indeed" and that "the concept of indirect perpetration could possibly become a key mode of liability in international criminal law". Sluiter discusses Sudan's lack of cooperation with ICC and problematic legal issues in the ICC cooperation law and Ciampi focuses on possible suspension of the proceedings against Bashir by the UN Security Council. The "Workshops" section of this issue is dedicated to corporate criminal responsibility under international criminal law. Clapham argues that "corporations and armed opposition groups have obligations under international law" and that "it is vital to realiz[e] the potential of claims of corporate complicity in international crimes". In contrast, Weigend cautions against introducing full corporate criminal responsibility too quickly since "it might well change the specific nature of criminal law". In the Notes and Comments section Robinson and Ghahraman discuss the possibility of prosecution of the Rwandan President Kagame by the ICTR and conclude that his prosecution would not be "prudent". The next two articles address initiatives of French and Spanish authorities to prosecute high ranking members of the RPF for crimes committed before and during the Rwandese genocide. The jurisprudence of the SCSL on forced marriage as a crime against humanity is analyzed in the following two papers. Jain focuses on the constitutive elements of this crime by comparing cases of Sierra Leone and Cambodia and Frulli extensively analyzes the SCSL Appeals Chamber ruling in *Brima, Kamara and Kanu*. The last two articles of this issue deal with two sets of national proceedings dealing with international crimes. The article by ChavezTafur discusses the use of international law

in the *Menendez et al.* case before the Argentinean Federal Tribunal and Cassesse criticizes the decision of the Italian Court of Cassation in the *Lozano* case.

In the **first issue** of 2009 Mireille Delmas-Marty theoretically analyzes law's responses to massacres and discusses two common models – law of the enemy (stemming from national criminal law and rendered topical again after 9/11) and law of inhumanity (symbolized by paradigm of crimes against humanity). After concluding that “the latter model is better suited to take account of the qualitative dimension of massacres” she analyzes three necessary conditions to make this model universal[izable], i.e. definition of crimes, assignment of responsibility and nature of punishment. In the next article John Jackson assesses law of evidence in international criminal trials via lens of equality of arms and the right to adversarial procedure. The following two articles address issues of *Hamdan* case before a military commission in Guantanamo Bay. Meyer argues for utilization of military professionals as triers of fact in future humanitarian law tribunals and Dehn focuses on the legal origins of the crime of “murder in violation of the law of war” under US Military Commissions Act – the crime Hamdan was acquitted of. The Workshop section of the Journal consists of the paper by Simons on the relationship between international criminal tribunals and media and of the article by Klarin on the impact of ICTY proceedings on public opinion in the former Yugoslavia. Contrasts between domestic and international prosecution of international crimes are explored by Rasiyah and illustrated by the example of the recent UK court-martial of Corporal Payne. In the final article Wanless tackles issues of corporate liability for international crimes under Canadian law.

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American Psychologist

By: Maartje Weerdesteijn

The **January issue** of the American psychologist (2009, Vol. 64, No 1) devotes six articles on the recent replication of the Milgram experiments by Jerry Burger. Burger sought to answer the question whether people would still obey today and wanted to test whether two personality characteristics made a difference; empathy and the desire to control events. As the Milgram experiments generated pervasive ethical concerns and cannot be conducted again today due to more stringent ethical guidelines, Burger stopped the experiment when the participants reached the 150 volt level. In the Milgram experiments seventy nine percent of the

participants continued until the end after the “learner” had verbally protested at 150 volt. Therefore, Burger noted, the current procedure allowed for a reasonable estimate whether the participants would have obeyed until the end under Milgram's conditions. In Burger's replication the percentage of people who continued to give shocks in the base condition was not significantly different from Milgram's findings. Contrary to expectations, however, participants who saw a confederate refuse did not significantly differ in their obedience rates. Even though there was some evidence that personality mattered, the data were not entirely consistent or easily interpretable. In reflecting on the legacy of the Milgram experiments in the second article, Ludy Benjamin and Jeffry Simson not only look at the novel insights the Milgram experiments produced in the field of personality and social psychology, but also on the effect of the Milgram experiments on the prevailing ethical guidelines and the change in research methodology that followed. There has been a shift away from research with high experimental realism towards research that had higher mundane realism. The authors perceive Burger's experiment as an example of how a better balance can be struck between the two. Arthur Miller in the third article similarly argues that Burger's experiment could promote further research on the behavioural aspects of obedience by showing it is possible to conduct experimental research while conforming to contemporary ethical guidelines. At the same time, however, the article points to difficulties in comparing the new research with that of Milgram considering the necessary methodological changes. Jean Twenge in her article interprets the results of Burger's experiment in light of cultural changes and growing individualism within the USA. She argues that Burger's study points to a decrease in obedience but argues simultaneously that obedience as a social norm will remain strong in these experiments due to the influence of the situation on human behaviour. The fifth article is written by Milgram's research assistant when he conducted the experiments, Alan Elms. Elms points out that the change in Burger's experiment that made it ethically acceptable, stopping at 150 volt, also made it much less significant. The value of Milgram's experiments lay in the order to obey destructive acts; that is what made it comparable to the Holocaust or other crimes of obedience. In the last article on the Milgram experiments Thomas Blass traces the history of Milgram's obedience experiments and denotes Burger's recent study as a “major milestone” and a “bridge between the past and the future of obedience research”.

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NEW JOURNALS

Dynamics of Asymmetric Conflicts - Pathways toward terrorism and genocide

Dynamics of Asymmetric Conflict (DAC) is a pioneering interdisciplinary journal that publishes original papers and reviews that contribute to understanding and ameliorating conflicts between states and non-state challengers. These conflicts too often lead to violence, sometimes to the extremes of terrorism or genocide. Understanding the trajectory to violence requires examination of conflicts that do not escalate to violence as well as those that do. This means studying individuals, groups, and movements who challenge the state without violence, as well as those who turn to radicalism and terrorism. Similarly, it is necessary to study state agents, agencies, and policy makers who respond to challenge without violence, as well as those who turn to torture, ethnic cleansing and genocide. It follows from this multi-level and dynamic perspective that every social science is welcome in the journal. Scholars from anthropology, communications, criminology, economics, geography, history, political science, psychology and sociology are invited to join in a new subculture that includes policy makers, analysts, and officers of police, military and intelligence services, as well as officers of non-governmental organizations and foundations interested in peace and conflict. *DAC* aims to support an academic-practitioner community that

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Hague Journal on the Rule of Law - HJRL

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Dr Philip Dwyer and Professor Lyndall Ryan from the University of Newcastle, Australia, are seeking contributors to a special issue of the Journal of Genocide Research which explores how massacre was used in the period surrounding the Napoleonic Wars. The purpose is to assess the impact of modernity and new technologies of massacre in the Napoleonic period, to pinpoint key similarities and differences, and to develop new hypotheses about how massacre was used to control the unknown.

The guest-editors are seeking contributors with expertise in the conduct of massacre, especially in Canada, Ireland, the Caribbean and Central and South America.

The contributors should be on board by August 2009, with papers submitted for peer review by June 2010. Publication is planned for 2011.

For expression of interest please contact:

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ACIC-NEWS

International Expert-meeting

From 18-21 June ACIC organizes an expert-meeting entitled: collective violence and international criminal justice – an interdisciplinary approach. The focus of the meeting will be on international crimes and criminal responsibility on the first day and on means and methods of research in the field of international criminal justice on the second day. The conference papers and other contributions will be published in an edited volume by Intersentia in the Supranational Criminal Law series. Alette Smeulers and Elies van Sliedregt will be the editors. Next to several ACIC staff members such as Catrien Bijleveld, Elies van Sliedregt, Wouter Werner, Barbora Hola and Alette Smeulers. Distinguished scholars from all over the world will participate in the project. Participants include amongst others: Xabier Agirre, Kai Ambos, Morten Bergsmo, Athanasios Chouliara, Mark Drumbl, Larissa van den Herik, Amelia Hoover, Donald Foster, Salin Nakhjavani, Sarah Nouwen, Mark Osiel, Stephan Parmentier, Leila Sadat, Michael Scharf, James Waller, Martin Witteveen and Elisabeth Wood.

Alette Smeulers has received a grant from the Netherlands Organisation for Scientific Research (NWO) for her research project entitled Breaking the Chain of Command – Who are the military recruits who refuse to obey the orders to commit international crimes? The main aim of Smeulers' research proposal is to focus on and interview these resisters and to compare them with the people who do commit international crimes in order to understand how they found the means to resist. NWO concluded that the project has a high level of societal relevance and believes that it will contribute substantially to the theoretical understanding and insight into the nature of compliance, crimes of obedience, altruism and rescue.

Miscellaneous

The War Crimes Research Office (WCRO) at American University Washington College of Law announces the most recent update to its Jurisprudence Collections, a comprehensive compilation of judgments, decisions and other key documents from international and hybrid courts and tribunals established to try genocide, crimes against humanity and war crimes. In addition to restoring full access to the Collections—which are now compatible across more web browsers—the current update contains the latest jurisprudence from the tribunals.

<http://www.wcl.american.edu/warcrimes>.

The 2009 Stockholm Prize in Criminology has been awarded this year for a field research and criminological theory on the causes and prevention of genocide to a Canadian-American academic and an Argentinean lawyer. The Prize will be shared by Raul **Zaffaroni** of the Supreme Court of Argentina, and John **Hagan** of Northwestern University in Illinois, USA.

Subscription

The newsletter will be sent electronically to all who have signed up on the website. Scholars who conduct research in the field of international crimes, such as genocide, war crimes, crimes against humanity and other gross human rights violations, international (criminal) law or any other relevant subject matter might be enlisted on the website. If you are interested: please contact us: info@supranationalcriminology.org and give your names, position, institutional affiliation, e-mail address, research interest and website and we will enlist you as a scholar within two weeks.

Others interested in receiving the newsletter who do not conduct research in any of the related areas can subscribe to the newsletter as an affiliated member. Please inform us of your interest via a mail to: info@supranationalcriminology.org and supply us with your name and e-mail address and you will receive the newsletter via e-mail.

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Deadline next issue: 1st of December 2009